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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,789	06/17/2002	Marcus Davidsson	P2877US00	8548
30671	7590	09/14/2009	EXAMINER	
DITTHAVONG MORI & STEINER, P.C.			RABOVIAINSKI, JIVKA A	
918 Prince St.			ART UNIT	PAPER NUMBER
Alexandria, VA 22314			2426	
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			09/14/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/031,789	DAVIDSSON ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	JIVKA RABOVIAINSKI	2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 June 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 39 - 62 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 39 - 62 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 17 June 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 01/25/2002, 09/16/2002.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This Office Action is in response to an AMENDMENT entered April 6, 2009 for the patent application 10/031789 filed on June 17, 2002.
2. The previous Office Action of December 22, 2008 is fully incorporated into this Final Office Action by reference.

### ***Continued Examination Under 37 CFR 1.114***

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/26/2009 has been entered.

### ***Status of Claims***

4. Claims 39 - 62 are pending  
Claims 1 -38 are cancelled.  
Claims 39 – 62 are new added claims.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 41 and 52 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 41 and 52 as amended recites: "... a second group of at least one avatar images representing a second group of the other multimedia apparatuses at least some of which are tuned to a different television programming than said television programming....".

There is no support for this claim in the instant application.

7. Claim 46 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the

claimed invention. Claim 46 cites “downloading an image database via a multiplexed broadcast stream containing said broadcast video signal” which was not described in the specification. The specification cites: “the chat communications is multiplexed into the broadcast stream and received together with the broadcast video signal” [0028] and “the chat communications are multiplexed into the broadcast stream” [0025].

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 39 – 48, 50 – 59 and 61 -62 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWeese (USPPGPubN 20050262542, referred to as DeWeese), and further in view of Kim (USPN 6910186, referred to as Kim).**

Note: U.S. patent Ser. No. 5880731 (referred to as Liles) is incorporated by reference in Kim in its entirety (see Kim – col. 3 lines 22 - 24). This reference is incorporated by reference in its entirety in Kim is treated as part of Kim specification.

**Regarding claims 39, 50 and 61:**

A method, comprising:

receiving a broadcast video signal at a user apparatus (DeWeese teaches: Fig. 1A);

receiving text communications from at least one multimedia apparatus (DeWeese teaches: Fig. 1A, chat equipment uses text communication [0058]);

displaying television programming of said broadcast video signal in a first display area of said user apparatus (Fig. 9/ television program 202; [0094]);

determining a theme of the displayed television programming (DeWeese teaches: The television chat system permits users to join chat groups related to television programs, channels, or *categories of programs* that the user may be interested in [0015]; chat topic Fig.9/204, [0094]);

selecting a background image based on said theme. DeWeese discloses that the television screen is divided by multiple screens which of that represent different things. DeWeese discloses television chat, but it does not specifically disclose a background image. However, Kim discloses

a chatroom with a background that is related to a product or service col. 5  
lines 62 - 67 – col. 6 lines 1 - 22);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeWeese's system for the teaching of background that is related to a product or service as further taught in Kim to meet all limitation in claim 39 in order to facilitate using a chat simultaneously with a broadcast television.

displaying said background image as a background in a second display area of said user apparatus, said displayed background image having a plurality of displayed graphical elements; [0120] is overlaid by display Fig. 17/322 – channel 4, 324

displaying in said second display area, simultaneously with the displayed television programming (DeWeese teaches: Fig. 17/322 and 324), a first group of at least one avatar images representing a first group of the other multimedia apparatuses that are tuned to said television programming (DeWeese teaches: Fig. 16/318); and

superimposing text of said text communications on said background image in said second display area close to said at least one displayed avatar image representing a participant that made said text communication.

DeWeese discloses television chat, but it does not specifically disclose an avatar with a text communication on the background image. However, Kim discloses Fig. 5A/avatar 142 with a text communication 143 on the background on the screen.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeWeese's system for receiving a broadcast video signal at a user with text from different apparatus with the teaching of avatar-interactive icon with a text communication on the background as further taught in Kim to meet all limitation in claim 39 in order to facilitate using a chat interactive icons simultaneously with a broadcast television.

**Regarding claims 40, 51 and 62:**

The method of claim 39, wherein said text remains displayed superimposed on top (DeWeese teaches: Fig. 16 with a text on the top of the background) of said background close to said at least one avatar image (DeWeese teaches: Fig. 16/318) until another text communication is received from the participant (DeWeese teaches: Fig. 16/317).

**Regarding claims 41 and 52:**

The method of claim 39, wherein displaying the first group of the at least one avatar images comprises:

displaying in said second display area, simultaneously with the displayed television programming (DeWeese teaches: Fig. 16/317 – a second area; Fig. 16/315 a television program), a second group of at least one avatar images representing a second group of the other multimedia apparatuses at least some of which are tuned to a different television programming than said television programming. DeWeese discloses different avatars on the display. DeWeese teaches: [0107] live video images of various users in a chat group can be displayed on display screen 240 in display regions 241-245, but the reference does not specifically disclose two different avatars on the same background. However, Kim discloses two different avatars on the same background Fig. 7C/162, 142 and 161.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeWeese's chat system with the teaching of avatar with a text communication on the background as further taught in Kim to meet all limitation in claim 41 in order to facilitate using a chat icons with text simultaneously with a broadcast television.

**Regarding claims 42 and 53:**

The method of claim 39, further comprising:  
selecting one of the avatar images of the first or second group  
(DeWeese teaches: Fig. 5/152, 154 and 156 selectable icons representing a participant in the chat belongs to different groups); and  
displaying, simultaneously with said text (DeWeese teaches: Fig. 16/316), said selected avatar image (DeWeese teaches: Fig. 16/318), superimposed on top of said background in said second display area (DeWeese teaches: Fig. 16/318). DeWeese does not display the selected image on the top of the screen. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeWeese display screen to receive the selected image on any place on the display screen.

**Regarding claims 43 and 54:**

The method of claim 39, wherein selecting the background image and displaying said background image are both performed at least two times during the broadcast of said television programming. DeWeese does not explicitly disclose changing the background and avatar image of the same chat participant. However, Kim discloses a chatroom service provider can

customize the background to accommodate different organizations col. 14 lines 5 - 12. Liles discloses a database of avatars that the user can select the avatar using selection dialog box 70 Fig. 3.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeWeese's chat system with the teaching of changing the background and avatar image of the same chat participant as further taught in Kim and Liles to meet all limitation in claim 43 in order to facilitate users taste to have a different background with a broadcast television.

**Regarding claims 44 and 55:**

The method of claim 39, wherein selecting includes selecting said background image from an image database residing in a memory device associated with said user apparatus. DeWeese discloses a chat communication with a television program. DeWeese does not explicitly disclose presenting different background in a memory device. However, Kim discloses graphic chatroom designed with a background appropriate for the corresponding avatars (see act 215 in FIG. 9B) col.17 lines 57 -60; A chatroom software that uses tiles for the background has an archive (stored information) col. 6 lines 12 – 17.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeWeese with the teaching of changing the background as further taught in Kim to meet all limitation in claim 44 in order to facilitate users taste to have a different background with a broadcast television.

**Regarding claims 45 and 56:**

The method of claim 39, wherein selecting includes selecting said background image from an image database residing on the Internet. DeWeese discloses a chat communication with a television program and live video images of various users in a chat group [0107], Fig. 11. DeWeese does not explicitly disclose image from an image database residing on the Internet; see abstract for download background. However, Kim discloses website that has icons available for use as avatars is illustrated in FIG. 3B and if participants see an icon they want to use as an avatar at a website (Internet).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeWeese's chat system with the teaching of obtaining images from Internet according to the participant's test as further taught in Kim to meet all limitation in claim 45 in

order to facilitate users taste to have a different chat images from a huge database with a broadcast television.

**Regarding claims 46 and 57:**

The method of claim 39, further comprising downloading an image database via a multiplexed broadcast stream containing said broadcast video signal, wherein selecting includes selecting said background image from said image database. DeWeese discloses a chat communication with a television program wherein the television chat system permits users to join *chat groups related to television programs*, channels, or categories of programs that the user may be interested in see abstract, Fig. 2A and [0015]. DeWeese does not explicitly disclose image from an image database residing on the Internet. However, Kim discloses website that has icons available for use as avatars is illustrated in FIG. 3B and if participants see an icon they want to use as an avatar at a website (Internet). Kim discloses download of a chatroom's background see include, but not limited to abstract, Fig. 3A.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeWeese's chat system with the teaching of obtaining images from database on the Internet as

further taught in Kim to meet all limitation in claim 46 in order to facilitate users taste to have a different chat images with a broadcast television.

**Regarding claims 47 and 58:**

The method of claim 39, further comprising:  
receiving at the user multimedia apparatus an indication of an action input to one of the other multimedia apparatuses that is represented by the selected one of the avatar images (DeWeese teaches: Fig. 16/316, 317 and 318 – avatar image);

in response to the indication, selecting an action image corresponding to said action input (DeWeese teaches: Fig. 16/ 317 and 316 shows responses from other multimedia apparatuses; Fig. 19, Fig. 7/184 and [0089], [0133] disclose that an option is highlighted to indicate that it has been selected by the sender user. The sender user can use arrow keys on his remote control to select option. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the highlighting an option on the display to indicate that the user has chosen to have the same action such as selecting an image.

displaying said action image superimposed on top of said background in said second display area (DeWeese teaches: Fig. 16 shows television

program on the upper left of the main screen and image background 316 on the upper top right of the screen with chat participants).

**Regarding claims 48 and 59:**

The method of claim 39, further comprising:  
receiving an indication of an action input to one of the other multimedia apparatuses that is represented by the selected one of the avatar images. DeWeese teaches display on the television screen the image of the person who is currently speaking from another multimedia apparatuses. DeWeese teaches that an option is highlighted (a region on the display – image) to indicate that it has been selected by the sender user [0089], [0133].

In response to the indication, selecting an action image corresponding to said action input. DeWeese teaches display on the television screen the image. DeWeese does not explicitly disclose interactive image on the screen in response to establish a communication. However, Kim discloses interactive avatar Fig. 8C/191.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeWeese's chat system with the teaching of an interactive image on the screen representing a chat

participant as further taught in Kim to meet all limitation in claim 48 in order to facilitate users taste to have a different chat images with a broadcast television.

displaying said action image superimposed on top of said television programming in said first display area. DeWeese teaches that an option is highlighted (a region on the display – image) to indicate that it has been selected by the sender user [0089], [0133].

**10. Claims 49 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWeese (USPPPub N 20050262542, referred to as DeWeese), and further in view of Kim (USPN 6910186, referred to as Kim), and further in view of Bickmore (USPN 6466213, referred to as Bickmore)**

**Regarding claims 49 and 60:**

The apparatus of claim 59, wherein the apparatus is further configured to control transparently superimposing of said action image over said television programming. DeWeese, Kim and Liles do not disclose a transparent icon overplayed on the screen. However, Bickmore discloses a Graphics Interchange Format (GIF) image can be loaded, made semi-

transparent and overlaid into the display area see Fig. 4 and the description about Fig. 4 in the Bickmore's specification.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeWeese, Kim and Liles chat systems with the teaching of an icon, image that are semi-transparent overlaid into the display area as further taught in Bickmore to meet all limitation in claim 49 in order to facilitate users in using a chat while watching a broadcast television.

### ***Examination Considerations***

11. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541,550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology

familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

12. Examiner's Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

13. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent *prima facie* statement.

14. Examiner's Opinion: paragraphs 11 - 13 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- DeWeese, USPPPub N 20050262542
- Kim, USPN 6910186
- Bickmore, USPN 6466213
- Liles, USPN 5880731

***Contact***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jivka Rabovianski whose telephone number is (571) 270-1845. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HIRL can be reached on (571) 272-3685. Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status

information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jivka Rabovianski/

September 2, 2009

/Joseph P. Hirl/  
Supervisory Patent Examiner, Art Unit 2426  
September 10, 2009